

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION**

GUIDEONE INSURANCE COMPANY,)

Plaintiff,)

v.)

PASTOR STANLEY HOLLOW HORN,)
SOUTH DAKOTA ASSEMBLY CHURCH)
OF GOD, RUSSELL HOLLOW HORN,)
WOUNDED KNEE CHURCH OF GOD,)
CHURCH OF GOD MINISTRIES, INC, and)
MARTYNA WHITE HAWK, Administrator)
of the Estates of BURT B. KALINE III,)
RANDY KALINE, and SUMMER KALINE,)
Deceased.)

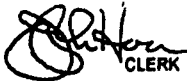
Defendants.)

Civil No. 12-5067

**Complaint For Declaratory
Judgment**

FILED

SEP 20 2012


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Plaintiff, GuideOne Insurance Company (GuideOne), through Donald P. Knudsen and Jeffrey R. Connolly of Gunderson, Palmer, Nelson and Ashmore, LLP, its attorneys, alleges:

JURISDICTION.

1. Plaintiff GuideOne is an Iowa Company authorized to do business in South Dakota. Its principal place of business is in Polk County, Iowa.
2. Defendant Pastor Stanley Hollow Horn (Stanley) is a resident of Wounded Knee, South Dakota.
3. Defendant South Dakota Assembly Church of God (South Dakota Church) is a network of six churches throughout South Dakota, with offices in Brookings, South Dakota.
4. Defendant Russell Hollow Horn (Russell) is a South Dakota resident currently incarcerated in Minnesota.
5. Defendant Wounded Knee Church of God (Wounded Knee Church) is a South Dakota ministry located in Wounded Knee, South Dakota.

6. Defendant Church of God Ministries, Inc. (Church of God) is an Indiana non-profit corporation with its principal place of business in Anderson, Madison County, Indiana. Church of God's ministries extend to South Dakota through the South Dakota Assembly Church of God.
7. Defendant White Hawk (White Hawk) is a South Dakota resident.
8. This is a declaratory action regarding scope of coverage of an insurance policy. The limits of the policy coverage and the amount in controversy in the underlying suit exceed \$75,000.
9. Jurisdiction is proper in this court pursuant to 28 U.S.C. § 1332(a)(1).

COUNT ONE – DECLARATORY JUDGMENT (28 USC § 2201).

10. GuideOne brings this action for declaratory judgment. An actual and justiciable controversy exists in this Court's jurisdiction between GuideOne and defendants concerning the rights, duties and obligations of the parties arising out of the terms and conditions of the insurance policy described below.
11. The Church of God, generally, is a religious denomination consisting of approximately 2,200 churches distributed throughout the United States. The church's policies are formulated and adopted by a General Assembly. Beneath the General Assembly is a Minister's Council. Beneath the Minister's Council is the Church of God. – the defendant in this action.
12. In 1947, the Oglala Sioux Tribal Council passed a resolution giving permission to the Board of Church Extension and Home Missions of the Church of God to use land for church purposes near Wounded Knee, South Dakota. In June 1948, the Oglala Sioux Tribe Executed Committee resolved to authorize the transfer of title to the land to the United States to be held in trust for a church site. Accordingly, Church of God owns the land and operates the Wounded Knee Church of God. Continued ownership or access of the land, however, is conditioned upon an active ministry being present on the site.

13. In approximately 2003, Defendant Pastor Stanley Hollow Horn was approached by various members of the community who indicated that the Wounded Knee Church was going to lose control of the land if there was not an active ministry. Stanley agreed to serve as pastor of the Wounded Knee Church on a part time basis. He executed an Independent Contractor Agreement with the Church of God Ministries, Inc. on December 29, 2009 for the 2010 calendar year.
14. The Church of God purchased a business auto insurance policy from Plaintiff GuideOne Insurance Company, Policy Number 1762-898-ARC, which was in effect from January 1, 2010 to January 1, 2011. The policy is attached as Exhibit 1.
15. Sometime in 2003 or 2004, a white Ford F150 pickup truck was donated to the Wounded Knee Church. At some point prior to 2010, the vehicle was titled in the name of "Stanley G. Hollow Horn DBA Wounded Knee Church of God." At some point, the vehicle was insured and licensed, but because it was unreliable, Stanley discontinued insuring and licensing the vehicle prior to 2010. The vehicle was kept on the Wounded Knee Church property, only to be used to haul garbage and other items around the property, and not to be used off the property.
16. Sometime in 2009, Stanley traveled to Montana to pick up his brother, Russell. Stanley had agreed to allow Russell to live with him.
17. On January 25, 2010, while driving the white Ford F150 pickup, Russell was involved in a motor vehicle collision with another vehicle on BIA Hwy. 27 south of Wounded Knee. This collision resulted in three fatalities in the other vehicle.
18. The January 25, 2010, motor vehicle collision resulted in a lawsuit by White Hawk against the South Dakota Church, Stanley, and Russell for wrongful death and negligent entrustment

in Oglala Sioux Tribal Court, Civil Number 12-0032. A copy of the Complaint in that lawsuit is attached as Exhibit 1.

19. Russell did not have permission to use the white Ford F150 pickup at the time of the accident.
20. Church of God Ministries, Inc. was not included as an owner on the pickup title.
21. Russell was not an employee of the Church of God or any other ministry affiliated with the Church of God, nor did he represent the Church of God or any affiliated ministry in any capacity.
22. As a result, GuideOne brings this declaratory judgment action pursuant to SDCL Ch. 21-24, and SDCL § 15-6-57.

PRAYER FOR RELIEF.

Plaintiff requests the following relief:

1. A judgment of this court declaring that Russell Hollow Horn is not an insured pursuant to GuideOne Policy Number 1762-898-ARC.
2. A judgment of this Court declaring that GuideOne has no duty to indemnify any defendant in any cause of action including, but not limited to, Civil Number 12-0032 filed in Oglala Sioux Tribal Court, Oglala Sioux Tribe, Pine Ridge, South Dakota, for damages arising from the accident involving the white Ford F150 pickup truck on January 25, 2010 under GuideOne Policy Number 1762-898-ARC.
3. A judgment of this Court declaring that GuideOne has no duty to defend any defendant in any cause of action including, but not limited to, Civil Number 12-0032 filed in Oglala Sioux Tribal Court, Oglala Sioux Tribe, Pine Ridge, South Dakota.

Dated: September 20, 2012.

GUNDERSON, PALMER, NELSON
& ASHMORE, LLP

By: 

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